

REMARKS

This Amendment is responsive to the official action dated February 3, 2005. Claims 1-15 were pending in the application. In the official action, claims 1-15 were rejected. In this Amendment, claims 4, 9 and 14 have been canceled, and claims 1-3, 5-8, 10-13 and 15 have been amended. Claims 1-3, 5-8, 10-13 and 15 thus remain for consideration.

Applicants submit that the application is now in condition for allowance and request reconsideration and withdrawal of the rejections in light of the following remarks.

Title

Applicants have amended the title as suggested by the Examiner. The new title is believed to be clearly indicative of the invention to which the claims are directed.

Claim Objections

Claims 4 and 6-10 were objected to because of informalities.

Claims 4 and 9 have been canceled, thereby rendering their rejections moot.

Claims 6-8 and 10 have been amended. Applicants submit that the amendments to claims 6-8 and 10 render those claims compliant with all formality requirements, and therefore request that the objections to the claims be withdrawn.

§112 Rejections

Claims 1-15 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 4, 9 and 14 have been canceled, thereby rendering their rejections moot.

Applicants submit that the amendments to claims 1-3, 5-8, 10-13 and 15 render those claims compliant with §112, and therefore request that the rejections under §112 be withdrawn.

§102 and §103 Rejections

Claims 1-3, 5-8, 10-13 and 15 were rejected under 35 U.S.C. §102(b) as being anticipated by "Robust Audio Watermarking Using Perceptual Masking" by Swanson et al.

Claims 4, 9 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Swanson as applied to claim 1, in view of "Towards a Telltale Watermarking Technique for Tamper-Proofing" by Kundar et al.

Claims 4, 9 and 14 have been canceled, thereby rendering their rejections moot.

Applicants respectfully submit that the independent claims (claims 1, 6 and 11) are patentable over Swanson and Kundar.

Applicants' invention as recited in the independent claims is directed toward a device and method for superimposing digital watermarking information on an audio signal, and a storage medium for storing a program code to implement the method. Each of the claims recites: "superimposing on said audio signal first digital watermarking information and second digital watermarking information to create a marked audio signal, said first digital watermarking information and said second digital watermarking information being based on [] psychological auditory sense encoded information and being characterized in that, upon compression of said marked signal to create a compressed signal, said first digital watermarking information

can be completely or substantially recovered from said compressed signal and said second watermarking information can not be completely or substantially recovered from said compressed signal; wherein said psychological auditory sense encoded information includes the respective frequency bands of said audio signal on which said first and second digital watermarking information are to be superimposed, and the respective levels to which the first and second digital watermarking information should be set prior to superimposition." Supporting disclosure for the quoted limitation can be found in the specification at, for example, page 12, line 22 - page 13, line 6; and page 17, line 22 - page 18, line 6.

Neither Swanson nor Kundar discloses "psychological auditory sense encoded information" as recited by Applicants. Accordingly, Applicants believe that claims 1, 6 and 11 are patentable over Swanson and Kundar - taken either alone or in combination - on at least this basis.

Dependent claims 2, 3, 5, 7, 8, 10, 12, 13 and 15 depend respectively on independent claims 1, 6 and 11. Since dependent claims inherit the limitations of their respective base claims, claims 2, 3, 5, 7, 8, 10, 12, 13 and 15 are patentable over the cited references for at least the same reasons discussed in connection with claims 1, 6 and 11.

Applicants respectfully submit that all of the claims now pending in the application are in condition for allowance, which action is earnestly solicited. If any issues remain, or if the Examiner has any further suggestions, he/she is invited to telephone the undersigned at (908) 654-5000.

The Examiner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account No. 12-1095.

Application No.: 09/869,170

Docket No.: SONYTA 3.3-130

The Examiner's consideration of this matter is gratefully acknowledged.

Dated: July 5, 2005

Respectfully submitted,

By



Bruno Polito

Registration No.: 38,580

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicant

573728_1.DOC